

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

FUSION ELITE ALL STARS, et al.,

Plaintiffs,

v.

Varsity Brands, LLC, et al.,

Defendants.

Case No. 2:20-cv-02600-SHL-cgc

Jury Trial Demanded

**DECLARATION OF VICTORIA SIMS IN SUPPORT OF PLAINTIFFS’
REPLY MEMORANDUM IN SUPPORT OF MOTION TO COMPEL
DISCOVERY FROM DEFENDANTS VARSITY BRANDS, LLC; VARSITY SPIRIT,
LLC; AND VARSITY SPIRIT FASHIONS & SUPPLIES, LLC**

I, Victoria Sims, declare the following under penalty of perjury:

1. I am an attorney with the law firm of Cuneo Gilbert & LaDuca LLP, counsel for Plaintiffs, and Interim Co-Lead Counsel for Direct Purchasers in the above-captioned matter. I make this declaration on personal knowledge and review of my files, except as otherwise indicated. I submit this declaration in support of Plaintiffs’ Reply Memorandum in Support of Motion to Compel Discovery from Defendants Varsity Brands, LLC; Varsity Spirit, LLC; and Varsity Spirit Fashions & Supplies, LLC, filed contemporaneously herewith.

2. I have represented the Direct Purchaser Plaintiffs in negotiations with Defendants Varsity Brands, LLC; Varsity Spirit, LLC; and Varsity Spirit Fashions & Supplies, LLC (collectively, “Varsity”) concerning Varsity’s discovery responses.

3. Attached as Exhibit 1 is a true and correct copy of the Declaration of Hal J. Singer, Ph.D. regarding the transactional data sought by Plaintiffs.

4. Counsel for Varsity previously indicated to Plaintiffs that it would produce transactional data going back to 2011 provided that plaintiffs in the related matters, *Jones, et al. v.*

Bain Capital Private Equity, et al., No. 20-cv-02892, and *American Spirit and Cheer Essentials, Inc., et al. v. Varsity Brands, LLC, et al.*, No. 20-cv-02782, would agree not to seek a more expanded set of All Star Apparel and Competition data than was sought in this action. However, after Plaintiffs obtained that agreement from plaintiffs in *Jones* and *American Spirit*, Varsity failed to deliver on its offer. A true and correct copy of correspondence from Plaintiffs concerning the willingness of plaintiffs in *Jones* and *American Spirit* to accept the same All Star Apparel and Competition data as Plaintiffs in *Fusion Elite All Stars*, provided the time period is expanded back to 2011, is attached as Exhibit 2.

5. Plaintiffs advised Varsity, in correspondence dated April 23, 2021 that there were a number of deficiencies in its initial data productions. Varsity has not responded. These discussions are memorialized in an excerpt of the parties' April 23, 2021 correspondence, attached as Exhibit 2. Full correspondence is not provided as it contains descriptions of Varsity's Confidential data.

6. Plaintiffs and Varsity discussed Varsity's production of event-specific profit and loss statements in the context of Plaintiffs' Request for Production No. 20, as demonstrated in correspondence dated April 19, 2021. A true and accurate copy of an excerpt of that correspondence is attached hereto as Exhibit 3.

7. Plaintiffs did not accept Varsity's offer to produce documents showing a single set of funds it advanced to USASF as it is inadequate to show all payments between Varsity and USASF during the entire 2012-2020 time period.

8. Attached as Exhibit 4 is a true and correct copy of Plaintiffs' First Requests for Production of Documents, served on Varsity, on October 16, 2020.

9. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 26th day of May, 2021 in Washington, DC.

s/ Victoria Sims

Victoria Sims